

Application No. 09/903,215  
Amendment dated February 9, 2004  
Reply to Office Action of September 23, 2003

### **REMARKS/ARGUMENTS**

Responsive to the Official Action mailed May 10, 2004, applicants respectfully traverse the Examiner's rejection of the pending claims under 35 U.S.C. §103, with reliance upon U.S. Patent No. 6,022,818, to Welch et al., in view of U.S. Patent No. 6,502,288, to Black et al.

For the Examiner's convenient reference, applicants submit herewith a copy of their Assignment document for the present application, assigning the application to Polymer Group, Inc., the assignee of the cited Black et al. reference. The Black et al. patent was published subsequent to the filing date of applicants' application, and by virtue of its common ownership, does not preclude patentability in accordance with the provisions of 35 U.S.C. §103(c). Accordingly, it is respectfully submitted that the Examiner's rejection should be withdrawn.

In applicants' previous response, they noted what are believed to be the clear deficiencies in the teachings of the principal Welch et al. reference. Most significantly, there is no teaching or suggestion in this reference of forming a multi-component nonwoven fabric, having a liquid-acceptance layer having an array of upstanding projections.

In the Action, the Examiner stated "it would have been obvious to one of ordinary skill in the art at the time the invention was made to create a patterned image on the surface of the composite of Welch et al. with the three-dimensional image transfer device of [Black] motivated by the desire to create a patterned nonwoven composite with enhanced physical characteristics." Applicants must

respectfully disagree with this statement, in that only their own disclosure teaches or suggests formation of a multi-component nonwoven fabric structure comprising an array of upstanding projections arranged to promote fluid management and user comfort.

At column 8, lines 4 *et seq.*, of Welch et al., hydroentanglement is discussed:

The pulp fiber layer 18 and the nonwoven substrate 20 are brought together upon a foraminous entangling surface 32 which passes through a conventional hydraulic entangling machine 34 which includes hydraulic entangling manifolds 35. It is desirable that the pulp layer 18 be positioned between the nonwoven substrate and the hydraulic entangling manifolds. As the pulp layer 18 and the nonwoven substrate pass through the machine 34, they are treated with jets of liquid which force the pulp fibers into the matrix fibers of the nonwoven substrate 20 thereby entangling the pulp fibers with the nonwoven matrix fibers to form the entangled pulp and nonwoven composite 36 of the present invention.

There is *no discussion* in this reference of the desirability or possibility of forming a three-dimensional liquid acceptance surface, in accordance with the present invention. Clearly, the principal Welch et al. reference is devoid of any such teachings.

Applicants again respectfully refer to the *Manual of Patent Examining Procedure* (M.P.E.P.), noting that Section 2143.01 specifically requires that "the prior art must suggest the desirability of the claimed invention," and that "*the level of skill in the art cannot be relied upon to provide the suggestion to combine reference*"

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(citations omitted). Moreover, the M.P.E.P. specifically admonishes that "the proposed modification cannot change the principle of operation of a reference."

In the present case, as noted above, Welch et al. specifically contemplates that hydroentanglement is effected in order to "force the pulp fibers into the matrix fibers of the nonwoven substrate 20." There is *no teaching* of rearranging the matrix fibers, much less any teaching of providing an array of upstanding projections. Thus, to suggest a modification of the Welch et al. reference as set forth in the Action clearly improperly acts to "change the principle of operation" of Welch et al., contrary to the express guidelines provided by the M.P.E.P.

The Examiner has acknowledges the novelty of applicants' claimed method with respect to the principal Welch et al. reference. Applicants respectfully maintain that modification of this reference, to arrive at applicants' claimed method, clearly would not be an obvious expedient to one skilled in the art, given the express disclosure of Welch et al. Modification of this reference teaches, in light of applicants' own disclosure, cannot provide a proper basis for rejecting the present claims under 35 U.S.C. §103.

In view of the foregoing, formal allowance of claims 12-21, and 24, is believed to be in order and is respectfully solicited. Should the Examiner wish to speak with applicants' attorneys, they may be reached at the number indicated below.

Application No. 09/903,215  
Amendment dated February 9, 2004  
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The Commissioner is hereby authorized to charge any additional fees which may be required in connection with this submission to Deposit Account No. 23-0785.

Respectfully submitted,

By \_\_\_\_\_

Stephen D. Geimer, Reg. No. 28,846

WOOD, PHILLIPS, KATZ, CLARK & MORTIMER  
500 West Madison Street, Suite 3800  
Chicago, Illinois 60661-2511  
312/876-1800

CERTIFICATE OF MAILING

I hereby certify that this paper is being deposited with the United States Postal Service with sufficient postage at First Class Mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450 on **August 25, 2004**.

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